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Attorneys for Defendant APPLE INC.

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**OAKLAND DIVISION**

EPIC GAMES, INC.

Plaintiff, Counter-defendant  
v.

APPLE INC.,

Defendant, Counterclaimant

Case No. 4:20-cv-05640-YGR-TSH

**DECLARATION OF MARK A. PERRY IN  
SUPPORT OF APPLE INC.'S  
ADMINISTRATIVE MOTION TO SEAL**

The Honorable Yvonne Gonzalez Rogers

1 I, Mark A. Perry, hereby declare as follows:

2 1. I am an attorney licensed to practice in the State of California and a member of the Bar  
3 of this Court. I am a partner at the law firm Weil, Gotshal & Manges LLP, counsel of record for Apple  
4 Inc. (“Apple”) in this case. I am familiar with Apple’s treatment of privileged information based on my  
5 personal experience representing Apple. I have personal knowledge of the facts stated below and, if  
6 called as a witness, would testify competently thereto. I submit this declaration in support of Apple’s  
7 Administrative Motion to Seal (the “Motion”).<sup>1</sup>  
8

9 2. I am aware that the law of this Circuit allows information to be filed under seal for good  
10 cause or in certain compelling circumstances, I also understand that courts routinely seal filings where  
11 documents include attorney-client privileged and work-product protected information. I understand that  
12 this Court has broad latitude to prevent the public disclosure of privileged, or otherwise protected,  
13 information.  
14

15 3. Apple has reviewed its Motion to Strike Certain Hearing Testimony and the exhibits  
16 attached thereto and now proposes to redact portions of these documents, as set forth below, on the  
17 grounds that, if disclosed, the exhibits would reveal attorney-client privileged and work-product  
18 protected information, the disclosure of which threatens significant harm to Apple.

19 4. Attached is a true and correct copy of the Motion to Strike to be electronically filed on  
20 March 7, 2025, with attorney-client privileged and work-product protected information highlighted in  
21 yellow.  
22  
23  
24  
25

26 <sup>1</sup> Courts in the Ninth Circuit routinely grant motions to seal based on declarations of counsel. *See, e.g.,*  
27 *In re Apple Secs. Litig.*, 19-cv-02033-YGR, Dkt. 223 (N.D. Cal.); *In re Qualcomm Litig.*, No. 17-cv-  
28 00108-GPC, Dkt. 398-1 (S.D. Cal. Mar. 26, 2018); *Avago Techs. U.S. Inc. v. Iprtronics Inc.*, No. 10-cv-  
02863-EJD, Dkt. 544 (N.D. Cal. Apr. 3, 2015); *Cisco Sys., Inc. v. OpenTV Inc.*, No. 13-cv- 00282-  
EJD, Dkt. 76 (N.D. Cal. Oct. 8, 2013). If the Court deems this declaration insufficient, Apple  
respectfully requests that it be permitted to file a further declaration supporting filing under seal.

1           5.           Attached as **Exhibit A** is a true and correct copy of the February 24, 2025 evidentiary  
2 hearing transcript for the above-captioned matter, with attorney-client privileged and work-product  
3 protected information highlighted in yellow.

4           6.           Attached as **Exhibit B** is a true and correct copy of a letter sent on February 24, 2025 via  
5 electronic mail from Joshua Wesneski to Gary Bornstein, with attorney-client privileged and work-  
6 product protected information highlighted in yellow.

7           7.           Attached as **Exhibit C** is a true and correct copy of a letter sent on February 28, 2025 via  
8 electronic mail from Gary Bornstein to Joshua Wesneski, with attorney-client privileged and work-  
9 product protected information highlighted in yellow.

10          8.           Attached as **Exhibit D** is a true and correct copy of a letter sent on March 5, 2025 via  
11 electronic mail from Mark Perry to Gary Bornstein, with attorney-client privileged and work-product  
12 protected information highlighted in yellow.

13                   Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and  
14 correct. Executed this 7th day of March 2025, in Washington, D.C.

15  
16  
17  
18       Dated: March 7, 2025

Respectfully submitted,

19                   By: /s/ Mark A. Perry

20                   Mark A. Perry

21                   WEIL, GOTSHAL & MANGES LLP

22                   Attorney for Apple Inc.